

## APPLICATION FOR JUDICIAL OFFICE

### SECTION I: PUBLIC INFORMATION (QUESTIONS 1 THROUGH 65)

#### PERSONAL INFORMATION

1. Full Name: **DAMON ANTHONY ROSSI**
2. Have you ever used or been known by any other name? \_\_\_\_\_ If so, state name: **NO**
3. Office Address: **595 WHITE SPAR ROAD, PRESCOTT, AZ 86305**
4. How long have you lived in Arizona? **50 YEARS AND 2 ½ MONTHS** What is your home zip code? **86314**
5. Identify the county you reside in and the years of your residency. **YAVAPAI**
6. If appointed, will you be 30 years old before taking office? ☒ yes    ☐ No  
If appointed, will you be younger than age 65 at the time of appointment?  
☒ yes    ☐ No
7. List your present and any former political party registrations and approximate dates of each: **1987-1992 REPUBLICAN; 1992-2004 DEMOCRAT; 2004-Present INDEPENDENT**

8. Gender: **MALE**

Race/Ethnicity: **CAUCASIAN**

<b>EDUCATIONAL BACKGROUND</b>
-------------------------------

9. List names and locations of all post-secondary schools attended and any degrees received.

**1987 - 1991 - THE UNIVERSITY OF ARIZONA, BACHELOR OF ARTS**  
**1993 - 1996 - THE UNIVERSITY OF ARIZONA, JURIS DOCTORATE**

10. List major and minor fields of study and extracurricular activities.

**MAJOR - HISTORY**  
**MINOR - POLITICAL SCIENCE**  
**LAW**

11. List scholarships, awards, honors, citations and any other factors (e.g., employment) you consider relevant to your performance during college and law school.

**DISTRICT AND LEGISLATIVE INTERN FOR U.S. CONGRESSIONAL DISTRICT 5, SERVING IN BOTH THE DISTRICT OFFICE AND THEN WASHINGTON D.C.**

**RULE 38 (e) AT PIMA COUNTY ATTORNEY'S OFFICE**

<b>PROFESSIONAL BACKGROUND AND EXPERIENCE</b>
---

12. List all courts in which you have been admitted to the practice of law with dates of admission. Give the same information for any administrative bodies that

require special admission to practice.

1996 - STATE BAR OF ARIZONA

1996 - U.S. NINTH CIRCUIT

13. a. Have you ever been denied admission to the bar of any state due to failure to pass the character and fitness screening? **NO** If so, explain. **NOT APPLICABLE**
- b. Have you ever had to retake a bar examination in order to be admitted to the bar of any state? **NO** If so, explain any circumstances that may have hindered your performance. **NOT APPLICABLE**
14. Describe your employment history since completing your undergraduate degree. List your current position first. If you have not been employed continuously since completing your undergraduate degree, describe what you did during any periods of unemployment or other professional inactivity in excess of three months. Do not attach a resume.

EMPLOYER	DATES	LOCATION
THE YAVAPAI COUNTY PUBLIC DEFENDER'S OFFICE	7/2015 TO PRESENT	PRESCOTT, AZ
THE LAW OFFICE OF DAMON A. ROSSI	7/2004 TO 7/2015	PRESCOTT, AZ
THE YAVAPAI COUNTY PUBLIC DEFENDER'S OFFICE	8/2000 TO 7/2004	PRESCOTT, AZ
THE MARICOPA COUNTY PUBLIC DEFENDER'S OFFICE	1/1998 TO 7/2000	PHOENIX, AZ
KAPLAN TEST PREP	9/1997 TO 1/1998	TEMPE, AZ
RONALD A. LEBOWITZ AND ASSOCIATES	8/1996 TO 7/1997	PHOENIX, AZ
NONE - STUDIED FOR BAR EXAM	5/1996 TO 8/1996	PHOENIX, AZ
THE PIMA COUNTY ATTORNEY'S OFFICE - CIVIL DIVISION (PART TIME)	2/1995 TO 5/1996	TUCSON, AZ

NONE - LAW SCHOOL	8/1993 TO 5/1996	TUCSON, AZ
THE UNIVERSITY OF ARIZONA - MAIN LIBRARY	9/1991 TO 7/1993	TUCSON, AZ
NONE - TRAVEL	5/1991 TO 8/1991	MONTANA AND WYOMING

15. List your law partners and associates, if any, within the last five years. You may attach a firm letterhead or other printed list. Applicants who are judges or commissioners should additionally attach a list of judges or commissioners currently on the bench in the court in which they serve.

NOT APPLICABLE

16. Describe the nature of your law practice over the last five years, listing the major areas of law in which you practiced and the percentage each constituted of your total practice. If you have been a judge or commissioner for the last five years, describe the nature of your law practice before your appointment to the bench.

FELONY CRIMINAL DEFENSE, INCLUDING TRIAL WORK AND  
APPELLATE/SPECIAL ACTION PRACTICE

17. List other areas of law in which you have practiced.

DOMESTIC RELATIONS (DIVORCE), CONTRACT, REGISTRAR OF  
CONTRACTORS, MOTOR VEHICLE DIVISION

18. Identify all areas of specialization for which you have been granted certification by the State Bar of Arizona or a bar organization in any other state.

NOT APPLICABLE

19. Describe your experience as it relates to negotiating and drafting important legal documents, statutes and/or rules.

AS A TRIAL LAWYER FOR THE PAST 22 ½ YEARS I HAVE DRAFTED  
NUMEROUS PLEADINGS, FROM MOTIONS TO DISMISS TO APPELLATE  
MEMORANDA.

20. Have you practiced in adversary proceedings before administrative boards or commissions? **YES**. If so, state:

a. The agencies and the approximate number of adversary proceedings in which you appeared before each agency. **ON AT LEAST 50 OCCASIONSHAVE PRACTICED BEFORE THE ARIZONA DEPARTMENT OF TRANSPORTATION EXECUTIVE HEARING OFFICE ON MATTERS RELATED TO DRIVER'S LICENSE SUSPENSIONS. I ALSO HANDLED A CASE BEFORE THE ARIZONA REGISTRAR OF CONTRACTORS ADMINISTRATIVE HEARING BOARD.**

b. The approximate number of these matters in which you appeared as:

Sole Counsel: **48**

Chief Counsel: \_\_\_\_\_

Associate Counsel: **3**

21. Have you handled any matters that have been arbitrated or mediated? **YES**  
If so, state the approximate number of these matters in which you were involved as:

Sole Counsel: **1**

Chief Counsel: \_\_\_\_\_

Associate Counsel: \_\_\_\_\_

22. List at least three but no more than five contested matters you negotiated to settlement. State as to each case: (1) the date or period of the proceedings; (2) the names, e-mail addresses, and telephone numbers of all counsel involved and the party each represented; (3) a summary of the substance of each case: and (4) a statement of any particular significance of the case.

A. [\(PLEASE CLICK ON LINK FOR CASE INFORMATION\)](#):

B. [\(PLEASE CLICK ON LINK FOR CASE INFORMATION\)](#)

C. [\(PLEASE CLICK ON LINK FOR CASE INFORMATION\)](#)

23. Have you represented clients in litigation in Federal or state trial courts? **YES** If

so, state:

The approximate number of cases in which you appeared before:

Federal Courts:	1
State Courts of Record:	>3,000
Municipal/Justice Courts:	≈500

The approximate percentage of those cases which have been:

Civil:	1-2 %
Criminal:	98-99 %

The approximate number of those cases in which you were:

Sole Counsel:	3,485
Chief Counsel:	5 -10
Associate Counsel:	2 - 5

The approximate percentage of those cases in which:

You wrote and filed a pre-trial, trial, or post-trial motion that wholly or partially disposed of the case (for example, a motion to dismiss, a motion for summary judgment, a motion for judgment as a matter of law, or a motion for new trial) or wrote a response to such a motion:	15 %
---	------

You argued a motion described above	80 %
-------------------------------------	------

You made a contested court appearance (other than as set forth in the above response)	5 %
---	-----

You negotiated a settlement:	96 %
------------------------------	------

The court rendered judgment after trial:	.05 %
--	-------

A jury rendered a verdict:	3 %
----------------------------	-----

The number of cases you have taken to trial: ≈ 50-70

Limited jurisdiction court 10

Superior court 45-60

Federal district court NOT APPLICABLE

Jury 45-65

Note: If you approximate the number of cases taken to trial, explain why an exact count is not possible. I HAVE SIMPLY LOST COUNT AS I HAVE BEEN A TRIAL ATTORNEY ALL OF MY PROFESSIONAL LIFE (FOR ALMOST 23 YEARS).

24. Have you practiced in the Federal or state appellate courts? STATE If so, state: The approximate number of your appeals which have been:

Civil: NOT APPLICABLE

Criminal: 6

Other: NOT APPLICABLE

The approximate number of matters in which you appeared:

As counsel of record on the brief: 5

Personally in oral argument: 0

25. Have you served as a judicial law clerk or staff attorney to a court? NO If so, identify the court, judge, and the dates of service and describe your role. NOT APPLICABLE

26. List at least three but no more than five cases you litigated or participated in as an attorney before mediators, arbitrators, administrative agencies, trial courts or appellate courts that were not negotiated to settlement. State as to each case: (1) the date or period of the proceedings; (2) the name of the court or agency and the name of the judge or officer before whom the case was heard; (3) the names, e-mail addresses, and telephone numbers of all counsel involved and the party each represented; (4) a summary of the substance of each case; and (5) a statement of any particular significance of the case.

(A). [\(PLEASE CLICK ON LINK FOR CASE INFORMATION\)](#)

(B). [\(PLEASE CLICK ON LINK FOR CASE INFORMATION\)](#)

(C). [\(PLEASE CLICK ON LINK FOR CASE INFORMATION\)](#)

27. If you now serve or have previously served as a mediator, arbitrator, part-time or full-time judicial officer, or quasi-judicial officer (e.g., administrative law judge, hearing officer, member of state agency tribunal, member of State Bar professionalism tribunal, member of military tribunal, etc.), give dates and details, including the courts or agencies involved, whether elected or appointed, periods of service and a thorough description of your assignments at each court or agency. Include information about the number and kinds of cases or duties you handled at each court or agency (e.g., jury or court trials, settlement conferences, contested hearings, administrative duties, etc.). **NOT APPLICABLE**
28. List at least three but no more than five cases you presided over or heard as a judicial or quasi-judicial officer, mediator or arbitrator. State as to each case: (1) the date or period of the proceedings; (2) the name of the court or agency; (3) the names, e-mail addresses, and telephone numbers of all counsel involved and the party each represented; (4) a summary of the substance of each case; and (5) a statement of any particular significance of the case. **NOT APPLICABLE**
29. Describe any additional professional experience you would like to bring to the Governor's attention. **I MANAGED MY OWN LAW PRACTICE FOR OVER 10 YEARS. I WAS ONE OF THE FIRST PRACTITIONERS IN THE PRESCOTT UNITY TO SUCCESSFULLY IMPLEMENT A PAPER-LESS LAW OFFICE. ALL EMPLOYEES WHO WORKED FOR ME WERE FIERCELY LOYAL AND FELT VALUED.**

<b>BUSINESS AND FINANCIAL INFORMATION</b>
---

30. Have you ever been engaged in any occupation, business or profession other than the practice of law or holding judicial or other public office, other than as described at question 14? **NO** If so, give details, including dates. **NOT APPLICABLE**
31. Are you now an officer, director, majority stockholder, managing member, or



otherwise engaged in the management of any business enterprise? **NO** If so, give details, including the name of the enterprise, the nature of the business, the title or other description of your position, the nature of your duties and the term of your service. **NOT APPLICABLE**

Do you intend to resign such positions and withdraw from any participation in the management of any such enterprises if you are appointed? **NOT APPLICABLE** If not, explain your decision. **NOT APPLICABLE**

32. Have you filed your state and federal income tax returns for all years you were legally required to file them? **YES** If not, explain. **NOT APPLICABLE**
33. Have you paid all state, federal and local taxes when due? **YES** If not, explain. **NOT APPLICABLE**
34. Are there currently any judgments or tax liens outstanding against you? **NO** If so, explain. **NOT APPLICABLE**
35. Have you ever violated a court order addressing your personal conduct, such as orders of protection, or for payment of child or spousal support? **NO** If so, explain. **NOT APPLICABLE**
36. Have you ever been a party to a lawsuit, including an administrative agency matter but excluding divorce? **NO** If so, identify the nature of the case, your role, the court, and the ultimate disposition. **NOT APPLICABLE**
37. Have you ever filed for bankruptcy protection on your own behalf or for an organization in which you held a majority ownership interest? **NO** If so, explain. **NOT APPLICABLE**
38. Do you have any financial interests including investments, which might conflict with the performance of your judicial duties? **NO** If so, explain. **NOT APPLICABLE**

<b>CONDUCT AND ETHICS</b>
---------------------------

39. Have you ever been terminated, asked to resign, expelled, or suspended from employment or any post-secondary school or course of learning due to allegations of dishonesty, plagiarism, cheating, or any other "cause" that might reflect in any way on your integrity? **NO** If so, provide details. **NOT APPLICABLE**
40. Have you ever been arrested for, charged with, and/or convicted of any felony, misdemeanor, or Uniform Code of Military Justice violation? **YES (ARRESTED)**
- If so, identify the nature of the offense, the court, the presiding judicial officer, and the ultimate disposition. **I WAS ARRESTED BY THE YAVAPAI COUNTY SHERIFF'S OFFICE WHEN I INSISTED ON GIVING A CLIENT (WHO WAS IN CUSTODY AT THE TIME) A CHRISTMAS MINT FROM AN OPEN CANDY DISH IN THE COURTROOM IN FRONT OF EVERYONE. NO CHARGES WERE EVER BROUGHT AGAINST ME. I SPENT A TOTAL OF 3 HOURS IN THE COUNTY JAIL UNTIL BEING RELEASED ON MY OWN RECOGNIZANCE.**
41. If you performed military service, please indicate the date and type of discharge. **NOT APPLICABLE** If other than honorable discharge, explain. **NOT APPLICABLE**
42. List and describe any matter (including mediation, arbitration, negotiated settlement and/or malpractice claim you referred to your insurance carrier) in which you were accused of wrongdoing concerning your law practice. **NOT APPLICABLE**
43. List and describe any litigation initiated against you based on allegations of misconduct other than any listed in your answer to question 42. **NOT APPLICABLE**
44. List and describe any sanctions imposed upon you by any court. **JUDGE JANIS STERLING ONCE ORDERED ME TO MAKE A \$150 DONATION TO THE CHARITY OF MY CHOICE WHEN I MADE A STATEMENT IN COURT THAT UPSET HER.**
45. Have you received a notice of formal charges, cautionary letter, private admonition, referral to a diversionary program, or any other conditional sanction

from the Commission on Judicial Conduct, the State Bar, or any other disciplinary body in any jurisdiction? **YES – THE STATE BAR** If so, in each case, state in detail the circumstances and the outcome. **IN APPROXIMATELY 2012/2013 FOR AN IOLTA BOOKEEPING ERROR IN WHICH I ACCIDENTALLY OVERDREW. I QUICKLY RECTIFIED THE SITUATION THAT DAY, BUT BECAUSE MY IOLTA WAS OVERDRAWN I RECEIVED AN INQUIRY FROM THE STATE BAR. AS A RESULT, I WAS ORDERED TO TAKE A TRUST ACCOUNTING CLASS WITH THE STATE BAR. NO DISCIPLINARY ACTION WAS FURTHER TAKEN NOR DID I END UP WITH A VIOLATION ON MY RECORD.**

46. During the last 10 years, have you unlawfully used controlled substances, narcotic drugs or dangerous drugs as defined by federal or state law? **NO** If your answer is “Yes,” explain in detail. **NOT APPLICABLE**
47. Within the last five years, have you ever been formally reprimanded, demoted, disciplined, cautioned, placed on probation, suspended, terminated or asked to resign by an employer, regulatory or investigative agency? **NO** If so, state the circumstances under which such action was taken, the date(s) such action was taken, the name(s) and contact information of any persons who took such action, and the background and resolution of such action. **NOT APPLICABLE**
48. Have you ever refused to submit to a test to determine whether you had consumed and/or were under the influence of alcohol or drugs? **NO** . If so, state the date you were requested to submit to such a test, type of test requested, the name and contact information of the entity requesting that you submit to the test, the outcome of your refusal and the reason why you refused to submit to such a test. **NOT APPLICABLE**
49. Have you ever been a party to litigation alleging that you failed to comply with the substantive requirements of any business or contractual arrangement, including but not limited to bankruptcy proceedings? **NO** If so, explain the circumstances of the litigation, including the background and resolution of the case, and provide the dates litigation was commenced and concluded, and the name(s) and contact information of the parties. **NOT APPLICABLE**

<b>PROFESSIONAL AND PUBLIC SERVICE</b>
--

50. Have you published or posted any legal or non-legal books or articles? **NO**. If so, list with the citations and dates. **NOT APPLICABLE**
51. Are you in compliance with the continuing legal education requirements applicable to you as a lawyer or judge? **YES** If not, explain. **NOT APPLICABLE**
52. Have you taught any courses on law or lectured at bar associations, conferences, law school forums or continuing legal education seminars? **NO**..If so, describe. **NOT APPLICABLE**
53. List memberships and activities in professional organizations, including offices held and dates.

**(A) ARIZONA ATTORNEYS FOR CRIMINAL JUSTICE – 2015 to PRESENT**

**(B) YAVAPAI COUNTY BAR ASSOCIATION – FROM APPROXIMATELY 2004 to 2006.**

Have you served on any committees of any bar association (local, state or national) or have you performed any other significant service to the bar? **NO**

List offices held in bar associations or on bar committees. **NOT APPLICABLE**  
Provide information about any activities in connection with pro bono legal services (defined as services to the indigent for no fee), legal related volunteer community activities or the like. **I SERVED ON THE BOARD OF DIRECTORS FOR PRIMAVERA GRADE SCHOOL FOR APPROXIMATELY 1 YEAR, AND PROVIDED SOME LEGAL ADVICE TO THE BOARD ON MATTERS SUCH AS TRADEMARK QUESTIONS.**

54. Describe the nature and dates of any relevant community or public service you have performed.

**A. APPROXIMATELY 2012 I SERVED AS AN ASSISTANT TEE BALL COACH.**

**B. APPROXIMATELY 2014 I SERVED AS AN ASSISTANT FLAG FOOTBALL COACH.**

**C. IN APPROXIMATELY 2010/2011 I SERVED ON THE BOARD OF DIRECTORS FOR PRIMAVERA GRADE SCHOOL, A LOCAL PRIVATE**

**SCHOOL IN PRESCOTT.**

55. List any relevant professional or civic honors, prizes, awards or other forms of recognition you have received. **NOT APPLICABLE**

56. List any elected or appointed public offices you have held and/or for which you have been a candidate, and the dates. **NOT APPLICABLE**

Have you ever been removed or resigned from office before your term expired? **NOT APPLICABLE**. If so, explain. **NOT APPLICABLE**

Have you voted in all general elections held during the last 10 years? **YES** If not, explain. **NOT APPLICABLE**

57. Describe any interests outside the practice of law that you would like to bring to the Governor's attention.

**I AM HIGHLY INTERESTED IN MAINTAINING A GOOD MARRIAGE FOR THE PAST TWENTY-FIVE YEARS AND BEING A GOOD FATHER TO MY TWO SONS. I BELIEVE THAT ONE'S FAMILY IS MUCH MORE IMPORTANT THAN SEEKING ACOLADES. I ENJOY HELPING OUT ON MY YOUNGEST SON'S SPORTS ACTIVITIES.**

**HEALTH**

58. Are you physically and mentally able to perform the essential duties of a judge with or without a reasonable accommodation in the court for which you are applying? **YES**

**ADDITIONAL INFORMATION**

59. Provide any information about yourself (your heritage, background, life experiences, etc.) that you would like the Governor to consider.

**I AM A NATIVE ARIZONAN AS IS MY MOTHER. MY MOTHER'S FATHER WAS A FIRST GENERATION AMERICAN CITIZEN, HAVING LEGALLY**

IMMIGRATED TO THE UNITED STATES FROM MEXICO. ALTHOUGH NEVER WEALTHY, I COME FROM A FAMILY OF HARD WORKING, HONEST, AND SUCCESSFUL FAMILY THAT LIVED THE AMERICAN DREAM. I FEEL AS IF LIVING IN ARIZONA MY WHOLE LIFE GIVES ME A PERSPECTIVE ON WHAT IS IMPORTANT TO RESIDENTS OF THIS STATE.

60. Provide any additional information relative to your qualifications you would like to bring to the Governor's attention.

I HAVE WORKED PROFESSIONALLY, MY ENTIRE CAREER, IN THE COURTROOM WITH JUDGES, LAWYERS AND JURIES. I HAVE OBSERVED OVER MY MANY YEARS IN THE COURTROOM, WHAT IS NEEDED FOR A PERSON TO MAKE AN EXCEPTIONAL JUDGE.

61. If selected for this position, do you intend to serve a full term and would you accept rotation to benches outside your areas of practice or interest and accept assignment to any court location? YES If not, explain. NOT APPLICABLE

62. Attach a brief statement explaining why you are seeking this position.

I HAVE BEEN A TRIAL LAWYER ALL OF MY PROFESSIONAL LIFE. I CAME TO THE CONCLUSION THAT WHAT I REALLY ENJOY ABOUT PRACTICING LAW IS BEING IN THE COURTROOM. AS A LAW STUDENT, I WAS UNCERTAIN OF WHERE MY LAW DEGREE WOULD LEAD ME. I SPENT SOME TIME WORKING FOR A CONGRESSMAN IN WASHINGTON D.C., AND ORIGINALLY THOUGHT I WANTED TO GO BACK AND WORK IN OUR NATION'S CAPITAL. BEING YOUNG AND SOMEWHAT IMPRESSIONABLE I BELIEVED THAT DEMOCRACY TRULY WORKED THERE AND THAT THE BEST WAY TO MAKE AN IMPACT WAS TO START WITH A LAW DEGREE. WHAT I DISCOVERED IN LAW SCHOOL AND AFTER WAS THAT TRUE DEMOCRACY LIES IN THE COURTROOM WITH A JURY. ALL OF THE VIRTUES OF OUR SYSTEM OF GOVERNMENT TRULY SHINE WHEN CITIZENS ARE SELECTED TO SERVE ON A JURY: COOPERATION, BUILDING A CONSENSUS, AND OF COURSE JURIES MORE OFTEN THAN NOT MAKE THE RIGHT DECISIONS THROUGH CAREFUL DELIBERATION. I THINK SOMETIMES JURIES DON'T REALIZE WHAT A COMFORT IT IS FOR LAWYERS AND JUDGES TO SEE THEM WORK SO HARD TO COME TO THE RIGHT DECISION.

SO WHY NOT JUST CONTINUE TO BE A LAWYER WHO TRIES CASES TO THE JURY? WHILE I HAVE THOROUGHLY ENJOYED MY CAREER, PRIMARILY IN CRIMINAL DEFENSE, I BELIEVE I HAVE MUCH MORE TO

OFFER AT THIS STAGE IN MY PROFESSIONAL LIFE AS A JUDGE. THIS IS PRIMARILY BECAUSE IN MY YEARS AS A LITIGATOR I APPEARED IN FRONT OF MANY JUDGES, AND I BELIEVE I KNOW WHAT IT TAKES TO BE SOMEONE WHO FOSTERS DEMOCRACY IN THE COURTROOM.

I HAVE LEARNED MANY THINGS FROM APPEARING IN FRONT OF MANY DIFFERENT PEOPLE. ONE OF THE BEST JUDGES I EVER APPEARED IN FRONT OF WAS THOMAS LINDBERG. HE IS NOW DECEASED. JUDGE LINDBERG RAN HIS COURTROOM IN A FASHION THAT MADE IT SEEM ACCESSIBLE TO ALL: LAWYERS, JURIES, SUPPORT STAFF, DEFENDANTS AND VICTIMS. WHILE I SOMETIMES VEHEMENTLY DISAGREED WITH SOME OF JUDGE LINDBERG'S CONCLUSIONS OF LAW, I GREW TO REALLY RESPECT HIM AS A JUDGE BECAUSE HE MADE THE COURTROOM A FAIR PLAYING FIELD FOR ALL AND DID NOT "LORD" HIS ROLE AS JUDGE OVER THOSE WHO APPEARED IN FRONT OF HIM. I NEVER FELT THAT JUDGE LINDBERG CARED MUCH ABOUT WHETHER HE WAS PERCEIVED AS POLITICALLY CORRECT. HE MADE IMPORTANT DECISIONS IN THE COURTROOM BASED UPON THE PRINCIPLES THAT I GLEANED HE LIVED BY: COMPASSION AND RESPECT FOR ALL HUMAN BEINGS, HUMILITY, AND TRUE FAITH IN OUR SYSTEM OF LAWS AND THE ROLE OF THE JURY.

I FIRMLY BELIEVE THAT TO BE AN EXCEPTIONAL JUDGE POLITICS SHOULD NEVER PLAY A PART IN THE POSITION. WHILE NOT ENTIRELY REALISTIC IN A SYSTEM THAT LARGELY FAVORS THOSE WITH POLITICAL CONNECTIONS OR ASPIRATIONS, I BELIEVE JUDGES MUST DO THEIR BEST TO SEPARATE THEMSELVES FROM WORRYING ABOUT PUBLIC OPINION. WITH ELECTED JUDGES IN THIS COUNTY I KNOW THIS CAN BE VERY DIFFICULT TO AVOID, BUT THIS DOES NOT MEAN THOSE WHO SERVE ON THE BENCH IN YAVAPAI COUNTY SHOULD TOLERATE IT. I SOMETIMES WORRY THAT JUDGES OFTEN LOSE SIGHT OF THEIR REAL ROLE IN OUR SYSTEM OF JUSTICE, BECAUSE THEY BECOME PREOCCUPIED WITH HOW THEY APPEAR TO THE PUBLIC OR TO OTHER JUDGES IN HIGHER COURTS. THAT IS CERTAINLY HUMAN NATURE, BUT I CAN ASSURE THE GOVERNOR THAT I HAVE HAD MANY YEARS TO THINK ABOUT THIS PHENOMENA AND IF I AM SELECTED, WILL MAKE EVERY CONSCIOUS EFFORT TO NEVER LET THIS INSTINCT INFILTRATE MY PERSPECTIVE AS A JUDGE. ONE THING THAT I THINK HELPS TO PREVENT SUCH THINKING IS TO DO WHAT JUDGE LINDBERG DID. ACT AND THINK WITH HUMILITY. THINK OF YOUR ROLE AS JUDGE AS LARGELY AKIN TO WHAT WEBSTER DEFINES AS A REFEREE—A PERSON WHO HELPS TO IMPARTIALLY DECIDE OR RESOLVE DISPUTES OR CONTROVERSIES. JUDGES MUST ENSURE A LEVEL PLAYING FIELD AND AT THE SAME TIME ALSO MAKE SURE OUR COURTS SERVE ALL. PERHAPS SOME MAY PERCEIVE SUCH THINKING AS NAÏVE, BUT AS ONE

WHO STRONGLY BELIEVES IN THE POWER OF DEMOCRACY, I BELIEVE THIS TYPE OF OUTLOOK IS OFTEN EITHER FORGOTTEN OR SORELY OVERLOOKED IN THE SELECTION OF OUR JUDGES.

63. Attach two professional writing samples, which you personally drafted (e.g., brief or motion). **Each writing sample should be no more than five pages in length, double-spaced.** You may excerpt a portion of a larger document to provide the writing samples. Please redact any personal, identifying information regarding the case at issue, unless it is a published opinion, bearing in mind that the writing sample may be made available to the public.

[\(PLEASE CLICK ON LINK TO VIEW SAMPLE NO. 1\)](#)

[\(PLEASE CLICK ON LINK TO VIEW SAMPLE NO. 2\)](#)

64. If you have ever served as a judicial or quasi-judicial officer, mediator or arbitrator, attach sample copies of not more than two written orders, findings or opinions (whether reported or not) which you personally drafted. **Each writing sample should be no more than five pages in length, double-spaced.** You may excerpt a portion of a larger document to provide the writing sample(s). Please redact any personal, identifying information regarding the case at issue, unless it is a published opinion, bearing in mind that the writing sample may be made available to the public. **NOT APPLICABLE**

65. If you are currently serving as a judicial officer in any court and are subject to a system of judicial performance review, please attach the public data reports and commission vote reports from your last three performance reviews. **NOT APPLICABLE**



# WRITING SAMPLE NO. 1

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
IN AND FOR THE COUNTY OF YAVAPAI

STATE OF ARIZONA, Plaintiff,

vs.

Defendant.

) [REDACTED]  
)  
) **MOTION TO MODIFY RELEASE**  
) **CONDITIONS**  
)  
) Superior Court Division 4  
)  
) Hearing Requested

**MEMORANDUM**

I. BACKGROUND

[REDACTED]

II. LAW AND ARGUMENT

A. Trial Courts Must Favor Release Over Pre-Trial Incarceration.

The new Rules of Criminal Procedure make it clear that trial courts must favor release over pre-trial incarceration. For instance, the Rules specifically remind that, “[a] defendant charged with a crime but not yet convicted is presumed to be innocent.”<sup>1</sup> Furthermore, release is so important that courts must start with the presumption of release on one’s own recognizance, and only take measured steps when placing stricter conditions on pre-trial release:

[e]xcept as these rules otherwise provide, any defendant charged with an offense bailable as a matter of right must be released pending and during trial on the defendant’s own recognizance with only the mandatory conditions of

---

<sup>1</sup> Ariz.R.Crim.P. 7.2 (a) (1).

---

release required under Rule 7.3(a). This rule does not apply if the court determines that such a release will not reasonably assure the defendant's appearance or protect the victim, any other person, or the community from risk of harm by the defendant. If the court makes such a determination, **it must impose the least onerous conditions of release set forth in Rule 7.3(c).**

[Emphasis added].<sup>2</sup> The Rules also require the Court utilize and rely upon the findings of a risk assessment tool before resorting to more onerous conditions:

**(c) Additional Conditions.** The court must order the defendant not to contact a victim if such an order is reasonable and necessary to protect a victim from physical harm, harassment, intimidation, or abuse. **The court also may impose as a condition of release one or more of the following conditions, if the court finds the condition is reasonable and necessary to secure the defendant's appearance or to protect another person or the community from risk of harm by the defendant. In making determinations under this rule, the court must consider, if provided, the results of a risk assessment approved by the Supreme Court and a law enforcement agency's lethality assessment.**

[Emphasis Added].<sup>3</sup> As stated, *supra*, the PSA scores show Defendant is a very low risk for new criminal activity and failure to appear.

**B. Non-Monetary Conditions Must Be Favored.**

The Rules explicitly set forth all Non-Monetary Conditions for consideration.

They are:

- (A) placing the defendant in the custody of a designated person or organization that agrees to provide supervision;
- (B) restricting the defendant's travel, associations, or residence;
- (C) prohibiting the defendant from possessing any dangerous weapon;

---

<sup>2</sup> Ariz.R.Crim.P. 7.2 (a) (2).

<sup>3</sup> Ariz.R.Crim.P. 7.3 (c).

(D) engaging in certain described activities, or consuming intoxicating liquors or any controlled substance that is not properly prescribed;

(E) requiring the defendant to report regularly to and remain under the supervision of an officer of the court;

(F) returning the defendant to custody after specified hours; or

(G) imposing any other non-monetary condition that is reasonably related to securing the defendant's appearance or protecting others or the community from risk of harm by the defendant.<sup>4</sup>

Historically, the Rules also contemplated installing such conditions only as needed.<sup>5</sup>

Only if a defendant's risk of non-appearance and risk of harm to others or the community is high, should the Court ever consider monetary conditions.<sup>6</sup> Furthermore, the new Rules also mandate the Court consider "the defendant's financial circumstances."<sup>7</sup> In fact, the Court "must not impose a monetary condition that results in unnecessary pretrial incarceration solely because the defendant is unable to pay the imposed monetary condition."<sup>8</sup>

Defendant not only possesses a low risk of repeat crime and failure to appear, but he is also indigent which the Court must consider if it believes a monetary condition necessary. For these reasons, a \$25,000 cash/secured bond is clearly excessive. Moreover, given Defendant's PSA score and the fact that the new Rules of Procedure discourage them, no justification even exists for any monetary condition.

---

<sup>4</sup> Ariz.R.Crim.P. 7.3 (c) (1).

<sup>5</sup> Court Comment to the 1973 Rules of Criminal Procedure [Amended 2007].

<sup>6</sup> Ariz.R.Crim.P. 7.3 (c) (2).

<sup>7</sup> *Id.*

Attached to this motion is a letter from the proposed third party custodians, [REDACTED]. Both are upstanding and law abiding citizens. Both hold Defendant in high regard. [REDACTED] served as a law enforcement officer for 19 years. [REDACTED] possesses experience in counseling and social work. They both can insure Defendant abides by any, and if need be all, Non-Monetary Conditions at the Court's disposal in Ariz.R.Crim.P. 7.3 (c). Should Defendant not abide by any conditions set, both Mr. and Mrs. [REDACTED] can assure the Court they will report any noncompliance so the Court can place Defendant back into custody.

### III. CONCLUSION

For the stated reasons, Defendant urges this Court release him from custody with any non-monetary condition it deems necessary. In the alternative, he urges this Court drastically lower the bond currently set.

---

<sup>8</sup> *Id.*

# **WRITING SAMPLE NO. 2**



IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF YAVAPAI

STATE OF ARIZONA,

Plaintiff,

██████████, N,

Defendant.

) Case No.: ██████████

) **REPLY IN SUPPORT OF**  
) **DEFENDANT'S MOTION FOR A**  
) **NEW FINDING OF PROBABLE**  
) **CAUSE**

) Superior Court Division 4

) (Oral Argument/Evidentiary Hearing  
) Requested)

Defendant replies in support of his Motion for a New Finding of Probable Cause.

The prosecution claims Defendant wants this Court to “weigh the sufficiency of evidence” presented to the grand jury. It also accuses Defendant of asking that this Court hold a “mini-trial” for purposes of his motion for remand.

These accusations are specious. Defendant merely asks for a fair and impartial presentation of the evidence to the grand jury, something that the prosecution, at a minimum, always owes the subject of a grand jury investigation. Courts consistently hold that a prosecutor’s failure to insure a fair and impartial presentation to a grand jury substantially violates a criminal defendant’s due process rights.<sup>1</sup> “The duties of fair play and impartiality imposed on those who attend and serve the grand jury are meant to ensure that the determinations made by that body are informed, objective and just.”<sup>2</sup>

---

<sup>1</sup> *Crimmins v. Superior Court, In & For Maricopa County*, 137 Ariz. 39, 41, 668 P.2d 882 (1983).

<sup>2</sup> *Id.*

Whether the prosecution showed the video to the jurors is not Defendant's complaint. Rather, it is the prosecution securing false testimony as to what the video shows. For instance, Mora misinformed the jurors that the video showed Defendant holding the gun in his left hand when he walked toward [REDACTED]. The video clearly shows Defendant stuck his left arm and hand out, while he held the gun in his right hand. Then [REDACTED] grabbed Defendant by that left arm and tried to yank him toward him. Omitting these facts unfairly led the jurors to the conclusion that Defendant intended to kill [REDACTED], rather than perhaps get him to back off. Again, Defendant cares not a wit, as to how the prosecution goes about accurately presenting the evidence to the grand jury. Whether it does so through a truthful witness or showing the video does not matter to Defendant. Just do it accurately!

Incidentally, the prosecution also falsely accuses Defendant of advocating for altering the surveillance footage. This is ridiculous. Adjusting the bright and contrast controls on a video screen does not "alter" the footage. It simply makes it easier to see what went on in the dark. It in no way changes what is on the film. In fact, law enforcement regularly resorts to *enhancing* video and audio footage in order to make it clearer.

The prosecution also inaccurately portrayed [REDACTED] and his fellow Red Iron MC comrades in such a way that the grand jury likely thought of them as a bunch of peaceful unthreatening motorcycle enthusiasts. Rather, as the evidence shows, this motorcycle "club" holds itself out as bikers who associate with "Hell's Angels," and other "one percenters." The video from May 13, as well as Red Iron's own Facebook page shows



members in a completely different light. As such, the false impression given to the grand jury also amounts to an *unfair and partial* presentation. This constitutes further grounds for remand.

Mora's testimony that "no one appeared aggressive" was also false and misleading. The video clearly shows several members of Red Irons MC backing up Defendant, just after [REDACTED] accused him of inappropriately touching her. They did so even when one witness overheard Defendant tell them he wanted no trouble. These individuals, nevertheless, continued coming closer to Defendant and he continued to back away. They did so, until Defendant had to turn around and run away from a confrontation.

A relatively short time after Defendant ran off, the parking lot video continues to show members pursuing/walking after him. With his path back to his room also blocked by these individuals, Defendant retreated behind the office and peered through the office window. [REDACTED] and [REDACTED], nevertheless, continued to pursue. Only then did Defendant walk to the back of the office building where he apparently drew his weapon.

Mora also neglected to tell the grand jurors that several members of the club reported to officers that Defendant ran off because he probably felt intimidated back in the parking lot. For example, [REDACTED] told police he walked toward Defendant in order to *confront* him about what he allegedly did to [REDACTED] in the taxi. [REDACTED] agreed with officers that Defendant likely thought members of the club *were going to beat him up*.

---

Rather than simply report what the video showed, the prosecutor and Mora also felt it necessary to spoon-feed the grand jury their theory about Defendant's intentions. They both falsely told the grand jurors the video evidence made Defendant's intentions apparent by inexcusably telling the jurors that Defendant essentially laid in wait for [REDACTED] as if to ambush him. The video shows nothing of the sort. Such a *spin* on the evidence also constitutes false and misleading testimony and warrants remand.

Denying a grand jury the ability to determine the case based on accurately depicted facts is grounds for remand.<sup>3</sup> Moreover, whether or not testimony is intentionally false does not matter:

[I]t is not the fact that the testimony is perjurious but rather that evidence, whether intentionally or unintentionally false, has been presented to the trier of fact and is used as a basis for finding probable cause. The defendant has no effective means of cross examining or rebutting the testimony given before a grand jury. Therefore, it is particularly incumbent upon the prosecutor, upon witnessing the use of misleading testimony, to correct the record before that body."<sup>4</sup>

In Defendant's case, the prosecutor did not just sit idly by and fail to correct the record; he actually augmented the false and misleading testimony with his own take on how the video supposedly shows Defendant waiting for [REDACTED] so he can shoot him.

Our Supreme Court condemns such conduct by prosecutors:

The prosecutor, as an officer of the court as well as the lawyer for the state, is not just an adversary of the person under investigation. The interests of the prosecutor and the state are not limited to indictment but include

---

<sup>3</sup> *Id.* at 43.

<sup>4</sup> *Nelson v. Roylston*, 137 Ariz. 272, 277, 669 P.2d 1349 (App. 1983).

serving the interests of justice; thus the prosecutor's obligation to make a fair and impartial presentation to the jury has long been recognized.<sup>5</sup>

When the prosecution prevents a grand jury from determining probable cause based on accurately depicted facts and applicable law, it denies a defendant his right to due process and a fair and impartial presentation.<sup>6</sup> This Court has no choice but to vacate this indictment.

---

<sup>5</sup> *Trebus v. Davis In & For County of Pima*, 189 Ariz. 621, 624–625, 944 P.2d 1235 (1997) (citations omitted).

<sup>6</sup> *Crimmins*, 137 Ariz. at 43.